

*E-filed on* 9/9/08

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JOHN GABOR and KAY GABOR,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

No. C-07-06091 RMW


ORDER DISMISSING CASE

By its order dated July 28, 2008, the court dismissed plaintiffs' claims against defendant Bradley A. Solomon and the Federal Defendants named by plaintiffs.<sup>1</sup> It also issued an order for plaintiffs to appear in court to show cause on September 5, 2008 why the complaint should not be dismissed for failure to state a claim against any defendant. The order also required plaintiffs to file a written response by August 25, 2008 addressing the question of why the complaint should not be dismissed as to the remaining defendants.

<sup>1</sup> The Federal Defendants include the United States of America, United States Attorney General Michael Mucasey, the Administrative Office of the United States District Courts, Assistant United States Attorney James A. Scharf, "clerk D. Miyashiro (dhm), COURT STAFF," and "clerk Jackie Garcia (jg), COURT STAFF."

1 Plaintiffs did not file a written response, however Mr. Gabor did appear in court to inform  
2 the court that he had filed a writ of mandamus with the Ninth Circuit rather than filing a response to  
3 the court's order to show cause. Based on its review of the record, the court is satisfied that  
4 plaintiffs state no facts from which it could be reasonably inferred that any individuals conspired to  
5 deprive plaintiffs of their constitutional rights as alleged. Therefore, because plaintiffs' claims are  
6 frivolous, do not state facts upon which relief can be granted, and name defendants who are immune,  
7 the court dismisses the case as to all defendants.

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9  
10 DATED: 9/8/08

  
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RONALD M. WHYTE  
United States District Judge

1 A copy of this order was mailed on 9/9/08 to:

2 **Plaintiffs:**

3 John and Kay Gabor  
4 590 Smokey Court  
5 Campbell, CA 95008-3717  
6 PRO SE

7 **Counsel for Defendants:**

8 Claire T. Cormier                      claire.cormier@usdoj.gov  
9 Kay Keeching Yu                      kay.yu@doj.ca.gov

10 Counsel are responsible for distributing copies of this order to co-counsel, as necessary.  
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United States District Court  
For the Northern District of California

